

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
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)

GENESPIDERNET CARIBBEAN, INC.)
)

Application for Global Authority Pursuant to)
Section 214 of the Communications Act)
Of 1934, as amended, to Operate as an)
International Facilities-Based and Resale Carrier)
Between the United States and Various)
International Points)
)

APPLICATION

Genespidernet Caribbean, Inc. (“Genespidernet” or “Applicant”), by its undersigned counsel, hereby requests global facilities-based authority and global resale authority under Section 214 of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. §214, and Section 63.18 of the Commission’s Rules, 47 C.F.R. §63.18, to provide international telecommunications services between the United States and international points.

I. The Applicant

Genespidernet is an international telecommunications provider organized under the laws of the Netherlands Antilles, with its operations based in Curacao. Last year, Genespidernet was one of the first new carriers authorized to offer competitive international telecommunications services to the public in Curacao. Therefore, Genespidernet is a non-dominant foreign carrier within the meaning of Section 63.09(d) and 63.10(a)(3) of the Commission’s Rules, 47 C.F.R. §63.09(d) and §63.10(a)(3). Genespidernet is also affiliated, within the meaning of Section

63.09(e) of the Commission's Rules, 47 C.F.R. §63.09(e), with Bermuda Telephone Company ("BTC") and Logic Communications Limited ("Logic"), entities authorized to provide telecommunications services in Bermuda. Logic is a competitive carrier authorized to provide international telecommunications services to the public in Bermuda. BTC is the incumbent local exchange carrier in Bermuda.

As new competitive international carriers in their respective home markets, neither Genespidernet nor Logic is dominant on the route between the United States and their home market. Because BTC is an incumbent local exchange carrier in Bermuda, however, Genespidernet accepts dominant carrier classification with respect to the US-Bermuda route, without prejudice to its right to petition for reclassification at a later date.

Finally, the Netherlands Antilles, the home country of Genespidernet, is a WTO Member country. And while Bermuda is not officially a WTO member, the Federal Communications Commission ("FCC") treats it as a WTO Member country for Section 214 authority purposes.¹ Accordingly, given that Genespidernet accepts dominant carrier classification on the US-Bermuda route, and Genespidernet and its affiliates come from WTO Member countries, Genespidernet's application is eligible for streamlined processing.

II. Public Interest Considerations

Genespidernet believes that the added competition its entry will bring to the market will benefit the consumers of United States-overseas services. These benefits include competitive

¹ See, e.g., Cable and Wireless USA, Inc., Application for Authority to Operate as a Facilities-based Carrier in Accordance with the Provisions of Section 63.18(e)(4) of the Rules between the United States and Bermuda, File No. ITC-214-19990709-00412, Order, Authorization and Certificate, 15 FCC Rcd 3050 (2000), at para. 7 (deferring to the opinion of the U.S. Department of State in treating Bermuda as a WTO member for purposes of applying the proper entry standard).

pricing and increased availability of a variety of innovative service options. Therefore, a grant of this Application will further the public interest.

III. Information Required by Section 63.18

Genespidernet submits the following information, as required by Section 63.18 of the Commission's Rules, in support of its request for Section 214 authority:

- (a) Name, address and telephone number of Applicant:

Genespidernet Caribbean, Inc.
Dr. M.J. Hugenholtzweg #46
Willemstad, Curacao
Tel: 011-599-9-465-1766
Fax: 011-599-9-465-1767

- (b) Applicant is incorporated under the laws of the Netherlands Antilles.

- (c) Correspondence concerning this application should be sent to:

Troy F. Tanner, Esq.
Yumi Daimaru, Esq.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Tel: (202) 424-7500
Fax: (202) 424-7645

With a copy to:

Lorraine Lyle
Managing Director
Genespidernet Caribbean Inc.
Dr. M.J. Hugenholtzweg #46
Willemstad, Curacao
Tel: 011-599-9-465-1766
Fax: 011-599-9-465-1767

- (d) Genespidernet has not previously received authority under Section 214 of the Act.
- (e) (1) Genespidernet requests Section 214 authority to operate as a facilities-based carrier pursuant to Section 63.18(e)(1) of the Commission's Rules.

Genespidernet requests such authorization for all international routes authorized by the Commission. Genespidernet certifies that it will comply with the terms and conditions of Section 63.21 and 63.22 of the Commission's Rules.

(2) Genespidernet also requests Section 214 authority to resell the international services of authorized U.S. common carriers pursuant to Section 63.18(e)(2) of the Commission's Rules. Genespidernet requests such authorization for all international routes authorized by the Commission. Genespidernet certifies that it will comply with the terms and conditions contained in Section 63.21 and 63.23 of the Commission's Rules.

- (f) Genespidernet seeks the authority to provide only the services referenced under paragraph (e) of Section 63.18 of the Commission's Rules.
- (g) Because Genespidernet is not seeking facilities-based authority pursuant to Section 63.18(e)(4) of the Commission's Rules, this Section is not applicable.
- (h) Information regarding Genespidernet's 10% or greater direct or indirect shareholders is as follows:

Name:	Buzzoni Limited
Address:	P.O. Box 933 ATC Trustees (BVI) Ltd. 2 nd Floor, Abbott Building Road Town Tortola, BVI
Percentage Held:	100%
Citizenship:	the British Virgin Islands
Principal Business:	Holding Company

Information regarding Buzzoni Limited's 10% or greater direct or indirect shareholders is as follows:

Name:	KeyTech Limited
Address:	P.O. Box 1021 Hamilton, HMDX Bermuda
Percentage Held:	50%
Citizenship:	Bermuda
Principal Business:	Holding Company

Name:	Roy Bottse
Address:	Seroe Bottelier #38 Willemstad Curacao
Citizenship:	Curacao

Percentage Held: 50%
Principal Business: Individual

Genespidernet has an interlocking officer and director with BTC to report:

Lorraine Lyle, the Managing Director of Genespidernet, is the President and CEO of BTC. In addition, Dr. James King, a member of the Board of Directors of Genespidernet, is the Chairman of the Board of BTC.

- (i) Genespidernet certifies that it is a foreign carrier in Curacao, Netherlands Antilles. Genespidernet also certifies that it is affiliated with Bermuda Telephone Company and Logic Communications Limited. Both Bermuda Telephone Company and Logic Communications Limited are foreign carriers authorized to provide telecommunications services in Bermuda.
- (j) Genespidernet certifies that it seeks to provide international telecommunications services to all global points, except those points on the Commission's Exclusion List. This includes Curacao, Netherlands Antilles, where Genespidernet is a foreign carrier as well as Bermuda where, as indicated at Paragraph (i) above, Genespidernet has foreign carrier affiliates.
- (k) Genespidernet is a foreign carrier based in Curacao, Netherlands Antilles, which is a Member of the WTO. Both of Genespidernet's affiliates, Bermuda Telephone Company and Logic Communications Limited, are based in Bermuda, which the FCC regards as a WTO Member country for Section 214 authority purposes.
- (l) Genespidernet may resell the international switched services of unaffiliated U.S. carriers for the purpose of providing international telecommunications services to the Netherlands Antilles where it is a foreign carrier, as well as to Bermuda where it is affiliated with two foreign carriers. As demonstrated below, Genespidernet will comply with dominant carrier treatment to Bermuda, but should be regulated as non-dominant to the Netherlands Antilles.

Although Bermuda Telephone Company is not on the Commission's *List of Foreign Telecommunications Carriers that are Presumed to Possess Market Power in Foreign Telecommunications Markets*, released June 18, 1999, it is the incumbent local exchange carrier in Bermuda. Thus, Genespidernet agrees to be classified as dominant with respect to the U.S.-Bermuda route, without prejudice to its right to petition for reclassification at a later date. Accordingly, Genespidernet agrees to file quarterly traffic reports pursuant to Section 43.61(c) of the Commission's Rules with respect to this route.

- (m) With the exception of the U.S.-Bermuda route, Genespidernet should be classified as non-dominant pursuant to Section 63.10(a)(3) of the Commission's Rules. Genespidernet is not listed on the Commission's *List of Foreign Telecommunications Carriers that are Presumed to Possess Market Power in*

Foreign Telecommunications Markets, released June 18, 1999. In addition, Genespidernet is a relatively new market entrant offering services in competition with a dominant foreign carrier and others in Curacao, Netherlands Antilles. At this time, Genespidernet holds significantly less than a 50 percent market share in the international transport and local access markets in the Netherlands Antilles. Moreover, Genespidernet does not have the ability to discriminate against unaffiliated U.S. international carriers through the control of bottleneck services or facilities to exercise market power in the Netherlands Antilles. Accordingly, Genespidernet lacks sufficient market power on the U.S.-Netherlands Antilles route to affect competition adversely in the U.S. market. Therefore, with the exception of the U.S.-Bermuda route, Genespidernet should be presumptively classified as a non-dominant carrier on all international routes.

- (n) Genespidernet certifies that it has not agreed to accept special concessions, as defined in Section 63.14(b) of the Commission's Rules, directly or indirectly from any foreign carrier where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.
- (o) Genespidernet certifies, pursuant to Section 1.2001 through 1.2003 of the Commission's Rules (implementing the Anti-Drug Abuse Act of 1988), that no party to its application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.
- (p) Genespidernet qualifies for streamlined processing pursuant to Section 63.12(c)(1)(v) of the Commission's Rules. As set forth above in Section (l), Genespidernet agrees to be classified as a dominant carrier with respect to the US-Bermuda route, without prejudice to its right to petition for reclassification at a later date. Moreover, Genespidernet qualifies for streamlined processing pursuant to Section 63.12(c)(1)(ii), because as set forth above in Section (m), Genespidernet qualifies for the presumption of non-dominance under Section 63.10(a)(3) of the Commission's Rules with respect to its foreign carrier status.

IV. Conclusion

For the reasons stated above, Genespidernet Caribbean, Inc. respectfully submits that the public interest, convenience, and necessity would be furthered by a grant of this Section 214 Application.

Respectfully submitted,

By:

Troy F. Tanner
Yumi Daimaru
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007
(202) 424-7500 (tel)
(202) 424-7643 (fax)

Counsel for Genespidernet Caribbean Inc.

Dated: April 18, 2001

CERTIFICATION OF APPLICANT

On behalf of Genespidernet Caribbean, Inc., I hereby certify that the statements in the foregoing Application for Section 214 authority are true, complete, and correct to the best of my knowledge and are made in good faith.

GENESPIDERNET CARIBBEAN, INC.

By: Lorraine Lyle

Name: Lorraine Lyle

Title: Managing Director
Genespidernet Caribbean, Inc.

Date: April 18, 2001